

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LESLIE E. SMITH and JOHN C. MONTAGNA

Appeal 2006-3109
Application 10/743,936
Technology Center 1700

Decided: November 14, 2006

Before KIMLIN, WARREN, and GAUDETTE, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 10-12 and 20-31.

Claims 32-35 stand withdrawn from consideration. Claim 10 is illustrative:

10. A method for forming wide paint film parts, which comprises: providing apparatus for forming wide paint film parts, having a frame; and, attached to the frame, at least two paint film stock grasping members, which generally oppose one another, which can grasp deformable paint film stock, at least one of which can be moved apart from the other while the stock is grasped;

providing deformable paint film stock, which is:
in a form of a discrete, substantially planar sheet,
made of a laminate material including a deformable base
having a paint film laminated thereon that provides a
painted surface finish, and
able to be itself formed into a part through vacuum or pressure
molding;
grasping the stock sheet on generally opposing sides by at least two
paint film stock grasping members; and
moving, while the stock is so grasped, the at least one of the at least
two paint film stock grasping members apart from the other so
as to draw or stretch the stock between the at least two paint
film stock grasping members in the plane of the sheet so as to
form a planarly drawn or stretched planar laminate paint film
sheet that retains a painted surface finish.

The Examiner relies upon the following references as evidence of
obviousness:

Peterson	US 2,759,217	Aug. 21, 1956
Susa	US 5,760,122	Jun. 2, 1998
Ghosh	US 6,487,902 B1	Dec. 3, 2002

Appellants' claimed invention is directed to a method for drawing or stretching paint film stock by grasping members in order to make the film stock wider. According to the present Specification, "[t]he widest width known to be available approaches approximately sixty, for example, being fifty-eight, inches" (Specification 1, penultimate paragraph). The Specification explains that "[t]his limitation occurs for various reasons, among which is the greater expense that would be entailed to make paint film stock of widths greater than available since, among other things, the

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application of paint film to form the stock is carried out by a gravure process" (*id.*). The Specification also relates that "hazards associated with spray or electrostatic painting of such wide parts can be avoided, and manufacturing costs of such wide parts can be reduced" (Specification, sentence bridging pages 2 and 3).

Appealed claims 10, 11, and 20-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Peterson in view of Susa. Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the stated combination of references further in view of Ghosh.

Appellants have not set forth arguments that are reasonably specific to any particular claim on appeal. Accordingly, all the appealed claims stand or fall together.

We have thoroughly reviewed each of Appellants' arguments for patentability. However, we are in complete agreement with the Examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the Examiner's rejections.

There is no dispute that Peterson, like Appellants, discloses a method for forming wide film parts using an apparatus having a frame and at least two film stock grasping members attached to the frame, which grasping members can deform the film stock by moving apart from each other. As recognized by the Examiner, Peterson is silent with respect to whether the drawn and stretched film stock of Peterson is painted. However, we are

satisfied that one of ordinary skill in the art would have found it obvious to employ the method and apparatus of Peterson to draw and stretch film stock that is painted. Certainly, as evidenced by Susa, it was known in the art to thermally deform and stretch painted film. Even if we accept Appellants' argument that the molding method of Susa is non-analogous to the stretching method of Peterson, which, in fact, we do not, we have no doubt that utilizing the stretching method and apparatus of Peterson to modify the dimensions of a painted or non-painted film would have been obvious to one of ordinary skill in the art.

Appellants have apprised us of no reason why one of ordinary skill in the art would have considered the method of Peterson to be applicable to **only** non-painted films. Undoubtedly, one of ordinary skill in the art would be concerned that stretching a painted film may be deleterious to the appearance of the painted surface, but we are convinced that one of ordinary skill in the art would have needed to resort to only routine experimentation to determine the maximum amount of stretching that is tolerable before surface appearance is compromised. It would seem that the maximum, acceptable degree of stretching would be dependent upon the specific film material and particular paint composition. For instance, one of ordinary skill in the art might expect that a latex paint would allow for more stretching than a non-latex paint. In any event, we find that it would have been a matter of obviousness for one of ordinary skill in the art to determine the maximum amount that a particular painted film can be stretched to produce

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optimum results. *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980).

As a final point, we note that Appellants base no argument upon objective evidence of nonobviousness, such as unexpected results, which would serve to rebut the *prima facie* case of obviousness established by the Examiner.

In conclusion, based on the foregoing, the Examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv) (2005).

AFFIRMED

clj

Christopher John Rudy
Suite 8
209 Huron Avenue
Port Huron, MI 48060